

Washington, Thursday, May 9, 1940

The President

EXECUTIVE ORDER

ESTABLISHING LOS ANGELES-LONG BEACH HARBOR NAVAL DEFENSIVE SEA AREA

CALIFORNIA

By virtue of and pursuant to the authority vested in me by the provisions of section 44 of the Criminal Code, as amended (U.S.C., title 18, sec. 96), all that area of water seaward of the mean low-water line in the Pacific Ocean easterly of a line bearing 147 degrees true from Point Fermin, California, and northerly of a line parallel to and 6,000 yards distant from the axis of the Los Angeles-Long Beach detached breakwater, extending eastward to Sunset Beach, California, except Los Angeles Harbor, Long Beach Inner and Outer Harbors, and all anchorage areas defined and established by the Secretary of War, is hereby established as a naval defensive sea area for purposes of national defense such area to be known as the Los Angeles-Long Beach Harbor Naval Defensive Sea Area.

At no time shall any vessel or other craft (other than public vessels of the United States and of the State of California, and merchant vessels and small craft during a fog or an emergency as hereinafter provided) be anchored within the defensive sea area above defined unless authorized by the Secretary of the Navy.

Merchant vessels and small craft may anchor in the defensive sea area during a thick fog or in an emergency of such nature as to require anchoring therein to prevent serious damage. Such merchant vessels and small craft shall leave the area on or before the passing of the fog or emergency: Provided, however, that, in the discretion of the Secretary of the Navy, any such merchant vessels or small craft may be required to leave or to be towed out, immediately or at any time, without expense to the United States.

Any person violating the provisions of this order shall be subject to the penalties provided by law.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

May 7, 1940.

[No. 8403]

[F. R. Doc. 40–1856; Filed, May 8, 1940; 11;28 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE CIVIL SERVICE COMMISSION TO REOPEN UNDER CERTAIN CONDITIONS EXAMINATIONS FROM WHICH APPOINTMENTS MAY BE MADE TO POSITIONS IN THE SOCIAL SECURITY BOARD

By virtue of the authority vested in me by the provisions of paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), the Civil Service Commission is hereby authorized to reopen any appropriate competitive examination from which a register of eligibles has been established and is still in existence or is about to be established, subject to the following conditions:

(a) The reopened examination shall be recommended in each case by the Social Security Board and the Federal Security Agency.

(b) The person nominated for the examination shall have been employed at least one year in a responsible administrative or professional capacity in a State agency which administers grants of Federal funds under the Social Security Act, and shall not have been separated therefrom because of delinquency or misconduct.

(c) The person nominated shall meet all the regular open competitive examination requirements, and shall not have participated in the regular examination from which the register in question has been or is to be established.

(d) The said nomination shall have been made prior to, or within ninety

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The dally issue of the Federal Register.

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days after the date of, separation from the State position.

Persons acquiring a status upon Civil Service registers under the provisions of this order shall be eligible for initial appointment, in accordance with usual procedure, only to appropriate positions in the Social Security Board, Federal Security Agency.

This order is recommended by the Federal Security Administrator and the Civil Service Commission.

Franklin D ROOSEVELT

THE WHITE HOUSE, May 7, 1940.

[No. 8404]

[F. R. Doc. 40-1855; Filed, May 8, 1940; 11:28 a. m.]

Rules, Regulations, Orders

TITLE 12-BANKS AND BANKING

CHAPTER II-BOARD OF GOVER-NORS OF THE FEDERAL RESERVE SYSTEM

PART 206-TRUST POWERS OF NATIONAL BANKS

On May 3, 1940, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, that effective June 1, 1940, Regulation F1 [12 CFR Part 206], Trust Powers of National Banks, be amended in the following respects:

1. Amend the first paragraph of subsection (a) of section 17 [12 CFR 206.17 (a)] of Regulation F by changing the period at the end thereof to a colon and adding the following:

Provided, however, That funds shall not be invested in a Common Trust Fund of the type provided for in subsection (d) of this section unless such investments are specifically authorized by the State statutes.

2. Amend subsection (b) of section 17 [12 CFR 206.17 (b)] of Regulation F by deleting "subsection (c)" and inserting in lieu thereof "subsections (c) and (6)"

3. Amend the first sentence of sub-

- section (c) of section 17 [12 CFR, 206.17 (c)] of Regulation F to read as follows: Subject to all other provisions of this regulation except subsections (b) and (d) of this section, funds received or held by a bank in its capacity as trustee, executor, administrator, or guardian may be invested in participations in a Common Trust Fund administered pur-
- 4. Amend second paragraph of subdivision (2) of subsection (c) of section 17 [12 CFR 206.17 (c) (2)] of Regulation F to read as follows:

suant to the provisions of this sub-

section.

At the time of making the first investment of funds of a trust in any Common Trust Fund, the bank shall send a notice of such investment to each person to whom a regular periodic accounting ordinarily would be rendered. except that such notices need not be sent to a court unless required by the court, and except that such notices need not be sent where the trust instrument specifically authorizes investments in Common Trust Funds.

5. Amend second paragraph of subdivision (3) of subsection (c) of section 17 [12 CFR 206.17 (c) (3)] of Regulation F to read as follows:

The bank shall, without charge, send a copy of the latest report of such audit annually to each person to whom a regular periodic accounting of the trusts participating in the Common Trust Fund ordinarily would be rendered or shall send advice to each such person annually that the report is available and that a copy will be furnished without charge upon request.

6. Amend the second sentence of the first paragraph of subdivision (5) of subsection (c) of section 17 [12 CFR 206.17 (c) (5)] of Regulation F to read as follows:

If the bank administers more than one Common Trust Fund under this subsection, no investment shall be made which would cause any one trust to have an interest in all such Common Trust Funds in excess of the sum of \$25,000; and if the bank administers Funds under both subsections (c) and (d) of this section, no investment shall be made which would cause any one trust to have an interest in all such Funds in excess of the sum of \$25,000.

7. At the end of section 17 [12 CFR 206.17] of Regulation F add a new subsection (d) reading as follows:

- (d) Common Trust Funds composed principally of mortgages (Mortgage Investment Funds). Subject to all other provisions of this regulation except subsections (b) and (c) of this section". funds received or held by a bank in its capacity as trustee, executor, administrator, or guardian may be invested in participations in a Common Trust Fund administered pursuant to the provisions of this subsection (hereinafter referred to as a "Mortgage Investment Fund"). All admissions and withdrawals of participations in a Mortgage Investment Fund shall be made on the basis of the actual amount invested by each participant, and, except in final liquidation of a Mortgage Investment Fund, participants therein shall not have an interest in reserves accumulated or enhancement in the value of assets, except such as may be distributable as income,
- (1) Mortgage Investment Fund to be operated under written plan. Each Mortgage Investment Fund shall be subject to the provisions of subdivision (1) of subsection (c) of this section.
- (2) Trust investment committee to approve participation. No funds of a trust shall be invested in a participation in a Mortgage Investment Fund without the approval of the trust investment committee. Before permitting any funds of any trust to be invested in a participation in a Mortgage Investment Fund, the trust investment committee shall review the assets comprising the Mortgage Investment Fund; and, if it finds that the condition of the Mortgage Investment Fund is such that the funds of such trust might not lawfully be invested in a participation therein at that time, or that such investment would be contrary to the provisions of this subsection, funds of such trust shall not be so invested.

At the time of making the first investment of funds of a trust in any Mortgage Investment Fund, the bank shall send a notice of such investment to each person to whom a regular periodic accounting ordinarily would be rendered, except that such notices need not be sent to a court unless required by the court, and except that such notices need not be sent where the trust instrument specifically authorizes investments in Mortgage Investment

- (3) Mortgage Investment Fund to be audited annually. Each Mortgage Investment Fund shall be subject to the provisions of subdivision (3) of subsection (c) of this section.
- (4) Value of assets to be determined periodically. Not less frequently than once during each period of three months, the trust investment committee of a bank administering a Mortgage Investment Fund shall determine the value of the assets in the Mortgage Invest-

¹¹ FR. 417; 4 FR. 4620.

²⁰ Note, however, that certain provisions of subsection (c) are incorporated in this subsection by reference.

ment Fund. No participation shall be | vestment shall be made which would | admitted to or withdrawn from the Mortgage Investment Fund except on the date of determination of such valuation or, if permitted by the Plan, within two business days subsequent to the date of such determination; and no participation shall be admitted to or withdrawn from the Mortgage Investment Fund unless, on the basis of such valuation. the value of the assets of the Mortgage Investment Fund, exclusive of accrued income, is at least equal to the amount of the outstanding participations. No participation shall be admitted or withdrawn unless, in accordance with the provisions of the Plan, prior to the date of the determination of such valuation, notice of intention to participate or to make such withdrawal shall have been given in writing to the bank administering the Mortgage Investment Fund, or a written notation of the contemplated participation or withdrawal shall have been made in the records of the

The real estate securing each obligation contained in a Mortgage Investment Fund and any real estate contained in the Mortgage Investment Fund shall be appraised at least once every three years by two persons, one of whom shall not have participated in the last preceding appraisal of the particular property for the purposes of the Mortgage Investment Fund. Such persons shall be appointed by the bank's board of directors and shall, in the opinion of the board, be familiar with real estate values in the vicinity in which any such real estate is situated and qualified to make such appraisals. The persons appointed shall actually inspect such real estate and shall so certify in a written certificate of appraisal, which shall be filed and preserved in the bank's records.

The trust investment committee shall require more frequent appraisals of all properties or any particular property if such action is deemed by the committee to be necessary to enable it properly to discharge the duties imposed upon it by this subsection.

(5) Miscellaneous limitations. funds of any trust shall be invested in a participation in a Mortgage Investment Fund if such investment would result in such trust's having an interest in the Mortgage Investment Fund in excess of the sum of \$1,200 or 2 per cent of the amount of the outstanding participations in the Mortgage Investment Fund, whichever is greater at the time of investment, or in any event in excess of the sum of \$10,000. If the bank administers more than one Mortgage Investment Fund, no investment shall be made which would cause any one trust to have an interest in all such Mortgage Investment Funds in excess of the sum of \$10,000; and, if the bank administers Funds under both subsections (c) and (d) of this section, no in- to be made as of any valuation date pation, with net income thereon to the

cause any one trust to have an interest in all such Funds in excess of the sum of \$25,000. In applying the limitations contained in this paragraph, if two or more trusts are created by the same settlor or settlors and as much as onehalf of the income or principal or both of each trust is payable or applicable to the use of the same person or persons, such trusts shall be considered as one.

No investment for a Mortgage Investment Fund shall be made in obligations of any one person, firm, or corporation which would cause the total amount of investment in obligations issued or guaranteed by such person, firm, or corporation to exceed 10 per cent of the amount of the outstanding participations in the Mortgage Investment Fund, provided that this limitation shall not apply to investments in obligations of the United States or for the payment of the principal and interest of which the faith and credit of the United States shall be pledged.

The unpaid balance of any obligation secured by real estate in which the funds of a Mortgage Investment Fund are invested shall not exceed \$10,000 on the date of the investment therein unless the aggregate amount of all outstanding participations in the Mortgage Investment Fund exceeds \$200,000, in which event the unpaid balance of such obligation shall not exceed 5 per cent of the amount of such outstanding participations or \$50,000, whichever amount

Any bank administering a Mortgage Investment Fund shall have the responsibility of maintaining in cash such part of the assets of the Mortgage Investment Fund as shall be deemed by the bank to be necessary to provide adequately for the needs of participating trusts and to prevent inequities between such trusts. No investment of the moneys of a Mortgage Investment Fund shall be made if following such investment the cash balance, exclusive of collected income on hand, in the Mortgage Investment Fund would be less than an amount equal to 5 per cent of the total amount of all outstanding participations in the Mortgage Investment Fund. Unless, upon computing the amount of the admissions and withdrawals which are to be made as of any valuation date pursuant to notice given as required in subdivision (4) of this subsection, the trust investment committee determines that there will be sufficient cash in the Mortgage Investment Fund to permit all such withdrawals, no admissions to or withdrawals from the Mortgage Investment Fund shall be permitted as of such valuation

Unless the trust investment committee determines that, after effecting the admissions and withdrawals which are

pursuant to notice given as required in subdivision (4) of this subsection, the amount of investments of a Mortgage Investment Fund represented by assets in which moneys of the Mortgage Investment Fund could not then be invested under the provisions of subdivision (8) of this subsection will not exceed 10 percent of the amount of the outstanding participations in the Mortgage Investment Fund, no admissions to or withdrawals from the Mortgage Investment Fund shall be permitted as of such valuation date.

(6) Reserve account and distribution of income. In each Mortgage Investment Fund the bank shall establish and maintain a reserve account as part of the principal thereof, to which, to the extent available, all realized losses shall be charged. Any realized gain in the value of assets of a Mortgage Investment Fund, other than income, shall be credited to such reserve account.

At least semiannually a bank administering a Mortgage Investment Fund shall determine the net income of the Mortgage Investment Fund during the period since the last determination thereof. At the close of each earning period, if the total amount contained in such reserve account is less than 10 percent of the total amount of all outstanding participations in the Mortgage Investment Fund, the bank shall transfer to the reserve account, out of the net income of the Mortgage Investment Fund, such amount as the bank shall determine to be proper under the circumstances. The total amount so to be transferred to the reserve account during any year shall not be less than 10 percent of the amount of the gross income of the Mortgage Investment Fund for such year or more than one percent of the average of the total amounts of all outstanding participations in the Mortgage Investment Fund at the close of each earning period. No such transfers to the reserve account shall be made which will cause the amount contained therein to exceed 10 per cent of the amount of all outstanding particinations

The balance of the net income remaining after transferring the appropriate part thereof, if any, to the reserve account, shall thereupon be distributed to the owners of the outstanding participations in the Mortgage Investment Fund in proportion to the amounts of their participations and the period of time owned since the previous determination of net income.

(7) Withdrawal of participation in a Mortgage Investment Fund. Upon the withdrawal of a participation of any trust prior to termination and final liquidation of a Mortgage Investment Fund. such trust shall be entitled to be paid in cash the total amount of the funds of such trust invested in the particidate of such payment, but such income shall not be paid until the amount thereof shall have been determined at the close of the current earning period.

Upon the termination and final liquidation of a Mortgage Investment Fund, all assets of the Mortgage Investment Fund shall be distributed among the owners of the participations at that time in proportion to the amounts thereof.

- (8) Investment of moneys of Mortgage Investment Funds. The moneys of a Mortgage Investment Fund shall be invested in—
- 1. Obligations secured by real estate which, at the date of the investment, are legal for investment of trust funds under the laws of the State in which the bank is located and are insured by the Federal Housing Administrator, having been insured prior to the first day of July 1939, pursuant to the provisions of Title II of the National Housing Act, approved the 27th day of June 1934, as amended, or having been so insured thereafter, with like force and effect, pursuant to any revision or extension of the provisions of the said Act; or
- 2. Obligations secured by real estate which, at the date of the investment, are legal for investment of trust funds under the laws of the State in which the bank is located and are of the kind which might be acquired by a national bank under the provisions for making amortized loans contained in the third sentence of section 24 of the Federal Reserve Act; or
- 3. Obligations secured by real estate which, at the date of the investment, are legal for investment of trust funds under the laws of the State in which the bank is located, which are payable within 20 years, and which either provide for semiannual payments reducing the principal thereof annually in an amount equal to at least 5 per cent of the amount of the principal on the date of investment, or provide for the amortization of the total unpaid principal amount of such mortgage on the date of investment by equal monthly payments during the term of such mortgage, such monthly payments being fixed at an amount which will include the interest due on such mortgage on the date of such payments and an additional amount to be applied in the reduction of the unpaid principal amount of such mortgage. In the case of a renewal or extension of any such obligation held by a Mortgage Investment Fund, the date upon which the Mortgage Investment Fund originally acquired the obligation shall be considered the date of investment.

If in the judgment of the trust investment committee such obligations are not available for investment of moneys of a Mortgage Investment Fund, such moneys may be invested temporarily in

obligations of the United States or of the State in which the bank is located or for the payment of the principal and interest of which the faith and credit of the United States or of such State shall be pledged, and which are legal for investment of trust funds under the laws of the State in which the bank is located. As soon as obligations secured by real estate in which the moneys of the Mortgage Investment Funds may be invested are available, such securities shall be disposed of and the proceeds invested in such obligations if this can be accomplished without disadvantage to the Mortgage Investment Fund.

- (9) Management of mortgage investment fund and fees. Each Mortgage Investment Fund shall be subject to the provisions of subdivision (8) of subsection (c) of this section.
- (10) Effect of mistakes. Each Mortgage Investment Fund shall be subject to the provisions of subdivision (9) of subsection (c) of this section.

ISec. 11 (i), 38 Stat. 262, sec. 2, 40 Stat. 968, 46 Stat. 814, sec. 342, 49 Stat. 722, sec. 1, 40 Stat. 1043, 44 Stat. 1224, sec. 24, 48 Stat. 190, secs. 330, 331, 49 Stat. 718, 719, sec. 169, 49 Stat. 1708, secs. 2, 3, 24 Stat. 18; 12 U.S.C. 248 (i), 12 U.S.C. 248 (k) and Sup., 33, 34a, 26 U.S.C., Sup., 169, 12 U.S.C. 30, 311

[SEAL]

S. R. CARPENTER, Assistant Secretary.

[F. R. Doc. 40-1854; Filed, May 8, 1940; 11:06 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS
[T.D. 50147]

Wellesley Farms Airport and Wellesley Island Seaplane Base, Wellesley Island, New York, Redesignated as Airports of Entry for a Period of One Year 1

MAY 6, 1940.

To Collectors of Customs and Others Concerned:

The Wellesley Farms Airport and the Wellesley Island Seaplane Base, Wellesley Island, New York, are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the Air Commerce Act of 1926 (U.S.C. title 49, sec. 179 (b)), for a period of one year from May 1, 1940. (Sec. 7 (b), 44 Stat. 572; 49 U.S.C. 177 (b))

[SEAL] JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40-1849; Filed, May 7, 1940; 3:14 p. m.]

¹ This document affects the tabulation in 19 CFR 4.13.

[T.D. 50148]

COUNTERVAILING DUTY—SILK GOODS FROM ITALY

T.D. 49909 NOT APPLICABLE TO CERTAIN IM-PORTED PRODUCTS SET FORTH THEREIN 1

To Collectors of Customs and Others Concerned:

The Department is in receipt of official advice to the effect that the bounties or grants referred to in T.D. 49909 are not accorded to woven materials, velvets, ribbons, tulles, crepes, knit goods and hosiery in the raw state, dyed or finished, exported from Italy on or after January 1, 1940.

In view of the foregoing, the provisions of T.D. 49909 shall not apply to merchandise of the kinds specified in items (e) and (f) of the table set forth in that decision, whether imported directly or indirectly from Italy, if the collector of customs concerned is satisfied that such merchandise was exported from Italy on or after January 1, 1940. (Sec. 303, 46 Stat. 687; 19 U.S.C. 1303)

[SEAL] BASIL HARRIS, Commissioner of Customs.

Approved, April 26, 1940.

Herbert E. Gaston,

Acting Secretary of the Treasury.

[F. R. Doc. 40-1850; Filed, May 7, 1940; 3:14 p. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 4969]

PART 19-INCOME TAX

AMENDING REGULATIONS RELATIVE TO THE DEDUCTIBILITY OF MARYLAND AND PENN-SYLVANIA GROUND RENTS

To Collectors of Internal Revenue and Others Concerned:

The last sentence of the second paragraph of \S 19.23 (b)-1 of Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] is hereby amended to read as follows:

"Payments of Maryland or Pennsylvania ground rents are deductible as interest if the ground rent is redeemable, but are treated as rent if the ground rent is irredeemable and in such case are deductible only to the extent they constitute a proper business expense."

(This Treasury decision is issued under the authority contained in sections 23

¹ This document affects the tabulation in ¹⁹ CFR 14.23.

² 4 F.R. 2860.

^{8 5} F.R. 377.

and 62 of the Internal Revenue Code | provisions of section 7 (a) of said Act | SECURITIES AND EXCHANGE COM-(53 Stat., 12, 32).)

ISEAL T GUY T. HELVERING, Commissioner of Internal Revenue. Approved, May 6, 1940.

JOHN L. SULLIVAN,

Acting Secretary of the Treasury.

F. R. Doc. 40-1851; Filed, May 7, 1940; 3:14 p. m.l

Notices

DEPARTMENT OF AGRICULTURE

Food and Drug Administration.

[F.D.C. 16]

PUBLIC HEARING FOR PURPOSE OF RECEIV-ING EVIDENCE UPON BASIS OF WHICH TO DETERMINE WHETHER REGULATION ES-TABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY FOR FOOD KNOWN UNDER ITS COMMON AND USUAL NAME AS CANNED TOMATOES SHALL BE AMENDED

NOTICE OF CERTIFICATION OF RECORD

Take notice that the presiding officer has this day certified the transcript of the testimony given in the aboveentitled proceeding and has filed the same with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, South Building, Independence Avenue between 12th and 14th Streets SW., Washington, D. C.

Pursuant to the unanimous agreement of all the parties present at the close of the hearing, Monday, May 13, 1940, has been, and hereby is, fixed as the date by which any interested party may submit proposed findings of fact based on the evidence of record, proposed conclusions, and arguments in support thereof by filing them in quintuplicate with the Hearing Clerk at the address stated above.

[SEAL]

MICHAEL F. MARKEL. Presiding Officer.

MAY 6, 1940.

F. R. Doc. 40-1853; Filed, May 8, 1940; 10:09 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

IN THE MATTER OF THE APPLICATION OF HANDLERS OF LEAF TOBACCO OF TYPE 32 FOR PARTIAL EXEMPTION FROM THE MAXIMUM HOURS PROVISIONS

Whereas applications have been made by the Maryland Tobacco Packing Company of Upper Marlboro, Maryland and sundry other parties engaged in the buying, handling, sorting, grading, packing and storing of leaf tobacco of type 32 (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture), pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of regulations issued thereunder, for partial exemption from the maximum hours

pursuant to the provisions of said section 7 (b) (3) applicable to industries found by the Administrator of the Wage and Hour Division to be of a seasonal nature, and

Whereas it appears from said applications that:

(1) the operations of buying, handling, sorting and grading of green leaf tobacco of the above type and the packing and storing thereof include operations essential to the preservation of a perishable agricultural product, and

(2) the plants of the green leaf tobacco handlers wherein said operations are performed, close at the end of the operating season each year except for maintenance, repair, clerical and sales work, and

(3) the earliest season begins about the first of May and lasts for about four months, and

(4) green tobacco, being the materials used by the industry, is available for natural reasons only at the above indicated times of the year when the plants are in operation.

Now, therefore, upon consideration of the facts and reasons stated in said applications, the Administrator hereby determines, pursuant to § 526.5 (b) (ii) of said Regulations, that a prima facie case has been shown for the granting of an exemption, pursuant to section 7 (b) (3) of the Fair Labor Standards Act of 1938 and § 526.3 of the Regulations issued thereunder, to that branch of the tobacco industry engaged in the buying. handling, sorting and grading of green leaf tobacco of type 32 (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture) and the packing and storing thereof.

In accordance with the procedure set forth in § 526.5 of the Regulations issued under said Act, the Administrator will receive objection to the granting of the exemption and request for hearing from any person interested for fifteen days following the publication in the FEDERAL REGISTER of this preliminary determination. If such objection and request for hearing is received, the Administrator will set the application for hearing before the Administrator or an authorized representative.

If no objection and request for hearing is received within fifteen days, the Administrator will make a finding upon the prima facie case shown upon said applications. The exemption shall become effective upon the publication of the finding in the FEDERAL REGISTER.

The said applications may be examined at Room 313, Hutchins Building, 939 D Street NW., Washington, D. C.

Signed at Washington, D. C., this 7th day of May 1940.

> PHILIP B. FLEMING. Colonel, Corps of Engineers. Administrator.

[F. R. Doc. 40-1852; Filed, May 7, 1940; 4:16 p. m.]

MISSION.

[File No. 70-33]

IN THE MATTER OF WALNUT ELECTRIC & GAS CORPORATION AND J. LEROY UNDER-

ORDER APPROVING APPLICATIONS

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of May, A. D. 1940.

Walnut Electric & Gas Corporation having filed an application and an amendment thereto, pursuant to Rule U-12D-1 adopted under section 12 (d) of the Public Utility Holding Company Act of 1935, for approval of the sale of all of the outstanding securities of its subsidiary, Wanoat Associates, consisting of 3.549 \$6 Cumulative Preferred shares of beneficial interest, no par value and 10 Common shares of beneficial interest, no par value; J. LeRoy Underhill having filed an application pursuant to section 10 (a) (1) of said Act for approval of the acquisition of the said securities; said applications having been joined for hearing and the proceedings therein having been consolidated;

A public hearing on said applications, as amended, having been duly held after appropriate notice; the record having been examined; and the Commission having made and filed its Findings and Opinion herein;

It is ordered. That the applications, as amended, filed by Walnut Electric & Gas Corporation and by J. LeRoy Underhill be and the same hereby are approved subject to the following terms and conditions, which are severally imposed upon the applicants insofar as they may be applicable to either of them:

(1) That all acts in connection with the said sale and acquisition of securities shall be performed in accordance with the terms and conditions of and for the purposes represented by the said applications, as amended:

(2) That within ten days after the said sale of securities, Walnut shall file with this Commission a certificate of notification stating that the sale has been effected in accordance with the terms and conditions of and for the purposes represented by its said application. as amended:

(3) That when all expenses, incurred in connection with the sale of the securities shall be actually paid, Walnut shall file with this Commission a detailed statement of such expenses showing the names of persons or entities to whom such payments were made, the amounts of such payments, the accounts charged. and a detailed description of the services rendered for which such payments were made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 40-1857; Filed, May 8, 1940; 11:29 a. m.]

